

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MASOOD HYDER, as Administrator of
the Estate of MOHAMED HYDER, Deceased,

VERIFIED ANSWER

Plaintiff,

Docket No.: 08 CIV 6446

- against-

Judge Robinson

STEVE J. KURUVILLA, M.D., ANDREW
FRANCIS, M.D., STONY BROOK
PSYCHIATRIC ASSOC., "EDMUND
MURPHY, R.N." (*identified as person
signing "Final Progress Note/Discharge
Orders" and "Individual Discharge Order Plan"
in Stony Brook Univ. Hosp. medical records
on 12/21/07, and "JANE DOE, L.C.S.W."
(name fictitious, full identity currently
unknown, identified only as mental health
care professional signing "Social Work
Progress Note" in Stony Brook Univ.
Hosp. medical records on 12/21/07,
at 17:30),*

Defendants.

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Defendants, ANDREW FRANCIS, M.D. and "STONY BROOK PSYCHIATRIC
ASSOCIATES, U.F.P.C., s/h/a STONY BROOK PSYCHIATRIC ASSOC.", by their attorneys,
LEWIS JOHS AVALLONE AVILES, LLP., answering the Complaint of the plaintiff, upon
information and belief, respectfully shows to this Court and alleges:

PARTIES

1. Defendants deny having knowledge or information sufficient to form a
belief as to each and every allegation contained in paragraphs numbered "1", "2", "3", "12", "13",
"14", "18", "19", "20", "21", "22" and "23" of the plaintiff's Complaint.

2. Defendants deny each and every allegation contained in paragraphs numbered "6", "7" and "8" of the plaintiff's Complaint, in the form alleged.

3. Defendants deny each and every allegation contained in paragraph numbered "9" of the plaintiff's Complaint, except admit that Andrew Francis, M.D. was an employee of Stony Brook Psychiatric Associates, U.F.P.C.

4. Defendants deny each and every allegation contained in paragraph numbered "10" of the plaintiff's Complaint, in the form alleged and refer all questions of law and fact to this Honorable Court and the triers of fact at the trial of this action.

5. Defendants deny each and every allegation contained in paragraph numbered "11" of the plaintiff's Complaint.

JURISDICTION

6. Defendants deny having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "24" of the plaintiff's Complaint, and refer all questions of law and fact to this Honorable Court and the triers of fact at the trial of this action.

7. Defendants deny having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered "25" and "26" of the plaintiff's Complaint.

8. Defendants deny each and every allegation contained in paragraph numbered "28" of the plaintiff's Complaint, and refer all questions of law and fact to this Honorable Court and the triers of fact at the trial of this action.

VENUE

9. Defendants deny having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "29" of the plaintiff's Complaint, and refer all questions of law and fact to this Honorable Court and the triers of fact at the trial of this action.

ANSWERING THE FIRST CAUSE OF ACTION

10. Answering paragraph numbered "31" of the plaintiff's Complaint, defendants repeat and reiterate each and every denial heretofore made in regard to each and every paragraph of plaintiff's Complaint, designated as paragraphs "1" through "30" inclusive with the same force and effect as though more fully set forth at length herein.

11. Defendants deny each and every allegation contained in paragraph numbered "32" of the plaintiff's Complaint, in the form alleged.

12. Defendants deny each and every allegation contained in paragraph numbered "33" of the plaintiff's Complaint, in the form alleged and refer all questions of law and fact to this Honorable Court and the triers of fact at the trial of this action.

13. Defendants deny each and every allegation contained in paragraphs numbered "35", "35", "36", "37", "38" and "39" of the plaintiff's Complaint.

ANSWERING THE SECOND CAUSE OF ACTION

14. Answering paragraph numbered "40" of the plaintiff's Complaint, defendants repeat and reiterate each and every denial heretofore made in regard to each and every paragraph of plaintiff's Complaint, designated as paragraphs "1" through "30" inclusive with the same force and effect as though more fully set forth at length herein.

15. Defendants deny each and every allegation contained in paragraphs numbered "41", "43", "44" and "45" of the plaintiff's Complaint.

16. Defendants deny having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "42" of the plaintiff's Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

17. The answering defendants herein deny liability; however, if a measure of damage of fifty percent or less is found against this answering defendant, then these answering defendants are entitled to the limitations of liability in CPLR Article 16.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

18. That this Court lacks jurisdiction over these answering defendants as they were not properly served.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

19. That any injuries sustained by plaintiff's decedent at the time and place mentioned in the Complaint, and any injuries sustained at said time and place which are alleged to have resulted in his death, were caused solely and wholly by reason of the intentional, careless, negligent, reckless and unlawful acts and omissions on the part of said plaintiff's decedent and were not caused or contributed to by reason of any carelessness, negligence, recklessness or unlawful acts or omissions on the part of these answering defendants.

W H E R E F O R E, defendants, ANDREW FRANCIS, M.D. and "STONY BROOK PSYCHIATRIC ASSOCIATES, U.F.P.C., s/h/a STONY BROOK PSYCHIATRIC ASSOC.", demand judgment dismissing the plaintiff's Complaint herein, together with the costs and disbursements of this action.

Dated: Melville, New York
August 27, 2008

LEWIS JOHS AVALLONE AVILES, LLP
Attorneys for Defendants
ANDREW FRANCIS, M.D. and "STONY BROOK
PSYCHIATRIC ASSOCIATES, U.F.P.C.,
s/h/a STONY BROOK PSYCHIATRIC ASSOC."
425 Broad Hollow Road, Suite 400
Melville, New York 11747-4712
(631) 755-0101

By: 
MICHAEL T. COLAVECCHIO (MC5765)

TO:
The Law Firm of
JOSEPH LANNI, P.C.
Attorneys for Plaintiffs
138 Chatsworth Avenue, Suite 6-8
Larchmont, New York 10538
(914) 834-6600
(914) 834-0152